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**THE RIGHT TO THE TRUTH IN THE POLITICS  
OF POST-CONFLICT SETTLEMENT:  
INTERNATIONAL DOCUMENTS  
AND WORLD EXPERIENCE**

The process of effective peacemaking in post-conflict societies requires balanced approaches to the realization of the right to truth, conscious participation of the state and society in the search for strategies for a common future. The process of reproduction of the common history plays a key role in overcoming the post-traumatic syndrome of the victims of the conflict and preventing recurrences of confrontation based on the consistent implementation of individual and collective rights to the truth. The presented study highlights the world experience of realization of the right to truth. The authors have made an attempt to highlight a set of universal means of reconciliation in international documents, which confirmed their effectiveness in various options of post-conflict settlement.

One of the most effective ways to establish the truth about violations, that took place during the conflict, is the activities of special truth and reconciliation commissions. An analysis of the activities of such commissions in different countries of the world became the basis for the fundamental UN documents that contain clear recommendations on the principles of organization of the work of relevant institutions for the restoration of the right to the truth and achieving social consensus in the post-conflict period.

In regulatory the UN documents, the right to the truth by its nature can be characterized as a collective as well as an individual right. The individual right to the truth provides an opportunity to protect the rights, freedoms and interests of an individual when an offence affects him directly or indirectly through family members. The individual measurement of the right to truth is realized through the possibilities of the judicial system to restore the violated human right to life, health, privacy, property or personal human rights. The collective dimension of the right to the truth is most often associated with the possibilities of protecting the public perception of the tragic events of mass human rights violations, keeping and protecting the history of the times of the conflict in the collective memory and consciousness.

*Keywords:* human rights, right to truth, truth commission, memory, post-conflict settlement.

Radical changes in the state of society are always accompanied by significant socio political tension. The period of society's withdrawal from any acute conflict is characterized by even more serious consequences, especially during the transition from a state of war to peace, when the problem of overcoming psychological traumas and post-traumatic syndrome of participants, victims and eyewitnesses of tragic events becomes essential. A certain dichotomy of intentions arises in the social conscience: on the one hand, the desire to get rid of memories of the past with its pain and horror, and on the other hand, the desire to find out the reasons that led to massive human rights violations, and to bring to justice those responsible for the terrible events, so that they cannot be repeated in the future.

One of the most sensitive and extremely difficult aspects of the post-conflict settlement politics is the right to know the truth about everything related to the conflict: its reasons, features of the course, political coloration, consequences for individuals and the country in general. The official statement of historical truth is one of the most difficult issues in the implementation of the concept of transitional justice, since we are talking about overcoming stereotypes that were brought up during a long period of development of the conflict state in the society.

The need of finding out the historical truth about the course of the conflict, its causes and consequences is also actualized by the intentions to prevent the emergence and spread of various kinds of destructive manipulations in society, for which the lack of information and its withholding from the public becomes a fertile ground.

International organizations play a key role in developing of general principles and bases for the application of the right to truth in the framework

of the concept of transitional justice and post-conflict settlement politics, among which the United Nations is a leader. A serious experience of the UN participation in overcoming the consequences of conflict situations in different countries of the world, as well as in the creation of specific models of post-conflict settlement, has made it possible to prepare a number of important documents, the use of which allows states not only to end the conflict, but also to create effective concepts to establish the foundations for permanent peace in the post-conflict period [1, 2]. The analytical reports and documents of the International Center for Transitional Justice [3] and the Truth and Reconciliation Commission of South Africa played a significant role in the study [4].

The importance of overcoming the consequences of conflicts and effective peacebuilding at the regional and global levels arouses the active interest of scientists who are actively working both in the theoretical and practical areas of researching the problem.

W. Lambourne examines the hands-on experience in the post-conflict societies of Cambodia, Rwanda, Timor-Leste and Sierra Leone. The researcher emphasizes the need to focus on the participation of civil society in the developing and implementation of transitional justice mechanisms [5]. The problems of correlation between collective memory and official discourse in post-conflict societies are explored by M. Ostojic [6]. The scholar notes that doubting the positivist concept of history leads to a change in the interrelations between memory and history. The human rights activist P. Hayner highlights the practical activities of truth commissions in many countries of the world [7]. Based on her own work experience in the Office of the United Nations High Commissioner for Human Rights and the International Center for Transitional Justice (ICTJ), the researcher provides a thorough analysis of a wide range of ethical, legal and organizational aspects of the creation of truth commissions in different countries of the world and their activities.

The specialists of the Ukrainian Helsinki Human Rights Union (UHHRU) carry out a thorough work on the study and popularization in Ukraine of the world practice of applying the concept of transitional justice, the fundamental component of which is the right to truth. The UHHRU experts have prepared a collective monograph, which reveals the content, main elements and mechanisms of the implementation of transitional justice, what has been considered in the context of the transformation of Ukrainian society from an authoritarian past to a democratic modernity and from the conditions of a military conflict to a post-conflict state [8].

It should be noted that despite the consistent interest of scholars in studying a wide range of issues of post-conflict settlement, the problem of analyzing the

content of the right to the truth in the politics of transitional justice continues to be one of the most promising research areas in the modern humanitarian sphere. The purpose of research inquiry is to study the world experience of complex and ambiguous processes of realizing the right to the truth, taking place in different countries of the world for many decades. The authors have made an attempt to highlight a set of universal means of reconciliation in international legal acts, which confirmed their effectiveness in various options of the political institutionalization of post-conflict settlement.

The world practice of application of the right to truth is based on the general principles of international humanitarian law, and is also based on a number of United Nations documents. In accordance with Resolution 2005/66 of the United Nations Commission on Human Rights, in 2006 the Office of the United Nations High Commissioner for Human Rights prepared a special report “Study on the right to the truth”, which presented the results of a study on the basic principles, field of application and content of the right to the truth, as well as the world’s best practices and recommendations for the effective implementation of this right.

The document of the United Nations High Commissioner for Human Rights states that the right to the truth about gross human rights violations and serious violations of human rights law is an inalienable and autonomous right, linked to the duty and obligation of the State to protect and guarantee human rights, to conduct effective investigations and to guarantee effective remedy and reparations. This right is closely linked with other rights and has both an individual and a societal dimension and should be considered as a non-derogable right and not be subject to limitations [1].

The content of the right to the truth includes a number of elements, among which the most important are the establishment of historical truth; documentation of events related to the conflict; maximally complete and truthful informing of the population about the course and consequences of the armed conflict; development of organizational and legal mechanisms excluding the distortion of historical events; creation of a public inquiry for public disclosure of the truth about the events of the conflict; open and informed public discussion of the events and consequences of the conflict; raising the issues about the events of the conflict period for the general socio-political discourse.

As we pointed out above, in the UN documents, the right to the truth by its nature can be characterized as a collective as well as an individual right. Moreover, both aspects are extremely important for a society that is trying to overcome the consequences of long-term and massive human rights violations. On this basis, the institutional task of the state politics in the transition

period is the organization of various models of protecting the right to the truth in order to achieve national reconciliation and post-conflict settlement.

The individual right to the truth provides an opportunity to protect the rights, freedoms and interests of an individual when an offence affects him directly or indirectly through family members. The individual measurement of the right to truth is realized through the possibilities of the judicial system to restore the violated human right to life, health, privacy, property or personal human rights, etc. Both national and international courts (special tribunals, temporary or permanent judicial commissions, interstate judicial chambers) are an effective tool to restore the individual right to the truth.

The collective dimension of the right to the truth is most often associated with the possibilities of protecting the public perception of the tragic events of mass human rights violations, keeping and protecting the history of the times of the conflict in the collective memory and consciousness.

The collective memory of the conflict contains information about common events of systemic human rights and freedoms violations associated with repressions, harassment, persecutions, tortures, disappearances and murders. M. Halbwachs notes that since memory is built socially, it is formed through interaction between people within social groups limited in space and time. Therefore, memories of the past are associated with a collective framework in which individuals together reproduce their own experiences. At the same time, the social nature of memory provides that personal memories are generated by the intersection of several variants of memories, which themselves correspond to different groups to which the persons belong [6].

Collective memory, which is actively connected with the political values and legal culture of society, reaches the national level and requires the appropriate institutionalization of the process of its building. Thus, the right to restore historical justice in the sense of restoring the public right to know and understand the truth about the events of the conflict period, as well as the causes of its occurrence, is provided not only and not so much by court decisions. The accumulated world experience of post-conflict settlement shows that a considerable effect is achieved by the use of out-of-court mechanisms, among which special state institutions play an important role – the so-called “Truth Commissions”.

In world practice, truth commissions traditionally investigate not only individual cases, but also build a systematic understanding of the nature and extent of human rights and freedoms violations during the conflict. The term “Truth Commission” originated in connection with the activities of the National Truth and Reconciliation Commission in Chile (1990–1991) and the Truth

Commission in El Salvador (1992–1993), but for the first time a commission with the appropriate powers was created in 1974 in Uganda [7, p. 256]. According to UN documents, truth commissions are officially approved ad hoc bodies that are given some time to gather testimony, lead investigations, study materials, and hold public hearings, after which they publish a final report [2].

The Office of the UN High Commissioner for Human Rights, analyzing the long-term world experience of truth commissions activities, has prepared a special document “Rule-of-Law Tools for Post-Conflict States: Truth Commissions”, which sets out the basic principles and methods of such commissions. UN experts state that the work of the truth commission can help society understand history that is not recognized or even denied, and at the same time convey the voices and stories of victims, which are often hidden from public attention, to the general public. The truth commission must intend to prevent further abuse by making concrete recommendations for institutional and political reforms in the state. The document notes that for the creation of truth commissions, the presence of three elements is fundamentally necessary:

1. Political will, which would allow to carry out a serious investigation of abuses and violations in the past and would ensure its promotion and active support.
2. Completion of the acute phase of the conflict.
3. The interest of victims and witnesses of the conflict in conduct of an inquiry and in cooperation with the truth commission [2].

Over the entire period of their existence, the truth commissions in post-conflict countries have acted under different names, however, they all performed the same task – to convey to the citizens of the state the truth about the national tragedy: its causes, circumstances, consequences. Since 1974, at least 40 special truth commissions have been established in countries that have come through the conflicts of various nature and origins [7, p. 256, 264].

Each country regulates the activities of the respective institutions to establish the historical truth independently according to specific national conditions and circumstances. However, despite the diversity of states’ approaches to the legal regulation of the activities of the truth commissions, the team of experts from the International Center for Transitional Justice has identified three fundamental goals of such institutions, the implementation of which will contribute to achieving a post-conflict settlement:

- Truth commissions must establish facts about violent events that remain controversial or denied.

Experts note that in some states, commissions limit their work by clarifying the factual circumstances of the ill-treatment, however, most commissions

analyzed the facts to determine the historical and social contexts that gave rise to the human rights violations, and whether further crime investigation of these events is possible.

- Truth commissions must protect, recognize and strengthen support for victims and survivors of dire events.

According to the conclusion of international experts, the commissions establish relationships with victims and survivors not only as informants, but also as carriers of violated rights, partners and individuals whose experience deserves public recognition.

- Truth commissions should shape information politics and encourage changes in behavior of groups and institutions, thus contributing to the social and political transformation of society [3, p. 9].

A distinctive feature of the conflicts, the consequences of which seek to overcome the truth commissions, is that they need not only to investigate the events in order to establish the facts, to protect victims and to identify possible culprits. The main task of post-conflict settlement is to create conditions for the maximum possible comfortable coexistence in the existing circumstances within the framework of one state, and very often within the same locality and community, participants in the former conflict and victims on both sides.

An important task of the post-conflict peacekeeping period is to maintain a balance of rights and responsibilities, consistent promotion of the idea of a common future in which there is no place for segregation in any form and on any grounds. As we can see, the process of effective peacekeeping requires the conscious participation of civil society, that perceives the need and consequences of the implementation of transitional justice mechanisms and is ready to actively participate in the development of a post-conflict future.

W. Lambourne notes that such an understanding requires a rethinking of the approach to “transition” as an intermediate process that connects the past and the future, and its shift to “transformation”, which implies long-term sustainable processes embedded in society, as well as the adoption of psycho-social, political, economic and legal perspectives of restoration of justice [5].

As the analysis shows, the practical recommendations prepared by the truth commissions try to identify and eliminate the causes of abuse and human rights violations in order to prevent their recurrence in the future. The activities of the relevant commissions in some states indicate that they regard reconciliation between the former parties to the conflict as their top priority.

International experts have found that even at the most basic level of activities of truth commissions, they allow victims to publicly tell their stories. The victims receive official recognition of their suffering, and the process

itself has a public benefit, even if such recognition is not supported by judicial proceedings [9].

The introduction of narratives about the real stories of victims of the conflict into the public discourse helps to attract to the peacekeeping process that part of the country's population that hasn't participated in the conflict and hasn't suffered personal losses. The public information shared by eyewitnesses helps to turn pallid statistics of victims of the conflict into a comprehensible story, which is able to evoke an emotional response and help mobilize the public for joint, conscious actions to overcome the consequences of the conflict and prevent a recurrence of this in the future.

British scholars who have studied the tragic experience of the conflict in Northern Ireland state: "The status of victim renders the victim deserving of sympathy, support, outside help. Victims, by definition, are vulnerable, and any violence on their part can be construed as the consequences of their victimization. The acquisition of the status of victim becomes an institutionalized way of escaping guilt, shame, or responsibility" [10, p. 62].

Although truth commissions have less authority than courts (they cannot imprison anyone, they cannot independently implement their recommendations and even force someone to testify before the commission), however, they have a broader purpose – to reveal the nature, causes and consequences of atrocities, therefore, they go much further in their investigation and conclusions than is possible in the courts. In particular, they can draw conclusions about the responsibility of the state and its institutions as a whole, not only of the defense and law enforcement agencies, but also the judiciary itself. Truth commissions focus on victims, they collect thousands of testimonies and proclaim this truth officially and publicly, and for many victims it is the first official recognition of their claims and, in cases of corruption and ineffectiveness of the judicial system, it is the first step to bringing the perpetrators to responsibility [11, p. 261].

The fact of public recognition of the losses and suffering of the victims of the conflict is able in some ways to solve significant psychological and socio-ethical problems of the post-conflict settlement. That way, the realization of the individual and collective right to the truth takes place in public discourse. Therefore, recalling the understanding of the nature of the memory of M. Halbwachs, eyewitnesses, parties, victims, and the part of the population that remained outside the conflict can enter into information exchange and begin the process of creating a common history about tragic events as a prerequisite for a common future.

In those world states, where conflicts of different origins took place, special state and non-state institutions were created to overcome the tragic



consequences of massive human rights violations and enforce citizens' right to the truth. In particular, the Center for Documentation and Archiving for the Protection of Human Rights was established in Paraguay, and in Uganda – the Commission for the Investigation of Disappearances. And in Bosnia and Herzegovina, to investigate the events of the war of 1992–1995, the Research and Documentation Center, Missing Persons Institute, and the Regional Commission Tasked with Establishing the Facts about All Victims of War Crimes and Other Serious Human Rights Violations were established (RECOM) [8, p. 10, 58, 62, 152].

The world experience of the application of the right to the truth has models of effective communication with the media. The activities of the Truth Commission in South Africa, where national newspapers, radio and television broadcasted the results of the Truth Commissions' activities, are considered to be a successful example of the communication strategy of such institutions. The hearings of the commission, the slogan of which was "Truth – the path to reconciliation", was broadcast live on national radio, and the Sunday evening show, which summed up the hearings, became the most watched news program in the country [3, p. 47].

The Sierra Leone Truth and Reconciliation Commission, which was established in 2002, took into account the local realities of the national conflict in its activities. The Commission paid additional attention to children who were both victims and perpetrators of crimes committed during the conflict in that country. The peculiarity of the powers of the truth commission in Sierra Leone was that there was a follow-up procedure for the activity, according to which the government was obliged to publicly report on the implementation of the Commission's recommendations on a quarterly basis. In 2004, the Commission released a final report with the names of responsible persons, more than 5,000 pages long, concerning human rights violations since 1991. The Commission, together with international non-governmental organizations, prepared and released a video version of the report, and, taking into account the high involvement of children in the conflict, in cooperation with the United Nations Children's Fund (UNICEF) issued a 50-page "child-friendly" version of the final report on human rights violations during the conflict in Sierra Leone [2].

World experience proves that the politics of post-conflict settlement should be based on the need to form a true picture of the events that took place during the conflict. According to M. Ostojic, historical memory has both cumulative and presentation aspects. The scholar notes that the baseline information about a historical event limits what can be said about it later. In addition, the present,

which acts as a memory filter for the reenactor of historical events, plays an important role in reflecting the past. M. Ostojic states that from the same “picture” of memory, it is possible to create different stories, depending on the emotional state of the individual and the social context of our time. Therefore, collecting evidence after conflict events has fundamental importance to further building of “history” and forming an appropriate public “memory history” of the conflict [6].

It should be noted that the use of quotation marks has not orthographic, but semantic meaning. In our opinion, a reenactor of historical events should aim to create not only a proper social history of memory, but, first of all, work on building a common memory history that should be as acceptable as possible for victims of the conflict on both sides. In the contrary case, the problem of the conflict of historical memory, which can be used by certain political forces both inside the country and outside, will appear on the way of reaching public consensus. The main prerequisite for developing a common history of memory is the most objective and truthful coverage of all aspects of the conflict without exception. Coverage, free from selectivity of facts and unambiguous assessments of characters or events.

The Ukrainian researcher N. Satokhina believes that establishing the truth about the events of the past is also of great importance for countering future claims to “rethink” history (for example, the materials of the Nuremberg trials were very useful in refuting numerous attempts to deny the Holocaust) and combating impunity (in most cases, truth commissions put in great efforts to ensure the prosecution in the future, including providing courts with information about criminals and evidence of their guilt) [11, p. 261]. It should be noted that truth commissions do not just hold public hearings on the tragic events of the conflict period, they ensure the realization of both the individual and the collective right to the truth and the corresponding recognition of the person as a victim. Therefore, if the victim has been recognized, then the person who has violated the rights and freedoms of the individual must also be identified, direct or indirect aggressor, who sooner or later must be held accountable for his actions.

The specialists of the UN High Commissioner for Human Rights also emphasize the complexity and duration of the process of restoring historical truth and justice. Finding the truth can be painful and even risky, and truth commissions, like other similar bodies around the world, often have to work in conditions of an unstable transitional period. While the benefits of their activities can be significant, and the discovery and recognition of what happened in the past may be really necessary, international experts note that the work of the commissions should not be expected to be an easy, risk-free process [2].

So, the analysis of the world experience of introducing the concept of transitional justice in the field of restoration of the right to the truth shows that the international community has developed a wide range of possible means for the gradual establishment of a peaceful life.

The key role in the politics of post-conflict settlement is played by ensuring both individual and collective right to the truth, which occurs through the institutionalization of the corresponding public request through the creation of state and non-governmental organizations and institutions – agencies, commissions, institutes, and etc. A worldwide experience shows, that one of the most effective ways to establish the truth about violations that took place during the armed conflict and violations that were repressive against the civilian population is the activities of special truth and reconciliation commissions. An analysis of the activities of such commissions in different countries of the world became the basis for the fundamental UN documents that contain clear recommendations on the principles of organization of the work of relevant institutions for the restoration of the right to the truth and achieving social consensus in the post-conflict period.

A world practice shows that in order to establish the truth about war, repression or any other serious conflicts in society, each state develops national legal mechanisms that exclude the distortion of historical events and speculation on the topic of an armed conflict. The analysis of national cases of post-conflict settlement policy is seen as an independent direction of further scientific research. But the countries independently decide on what means will be used by the society on the way to find the truth about the conflict, based on their own realities.

A fundamentally important element of the realization of the right to truth in the politics of post-conflict settlement should be the conscious direction of the public discourse of historical memory on the implementation into public opinion the idea of the ability of the entire nation to overcome the terrible problems of the past.

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**Право на правду в політиці постконфліктного врегулювання: міжнародні документи та світовий досвід**

Процес ефективного миротворення в постконфліктних суспільствах потребує зважених підходів у реалізації права на правду, усвідомленої участі держави і суспільства у пошуках стратегій спільного майбутнього. Провідну роль у подоланні наслідків конфлікту і запобіганні рецидивам протистояння відіграє процес відтворення історії на основі послідовної реалізації права на правду.

У представленій роботі висвітлюється світовий досвід складних і неоднозначних процесів реалізації права на правду. Зроблено спробу висвітлення набору універсальних засобів примирення в міжнародних документах, що підтвердили свою ефективність у різних варіантах постконфліктного врегулювання.

*Ключові слова:* права людини, право на правду, комісія правди, пам'ять, постконфліктне врегулювання.